

AMENDED IN ASSEMBLY APRIL 10, 2014

AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 1803**

---

---

**Introduced by Assembly Member Skinner**

February 18, 2014

---

---

An act to amend Section 6716 of, and to add Sections 6717.1, 6717.2, 6717.3, 6717.4, 6717.5, and 6717.6 to, the Labor Code, relating to occupational safety and health.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1803, as amended, Skinner. Occupational safety and health: lead-related construction registration program.

Existing law requires the proposal, review, and adoption of standards and requirements to protect the health and safety of employees who engage in lead-related construction work.

This bill would establish a registration program that, with certain exceptions, would require employers and contractors who perform lead-related construction work, as defined, to register with the Division of Occupational Safety and Health before commencing work. The bill would require payment of an application fee for registration in an amount determined by the division as prescribed and would require annual renewal of the registration with the payment of a renewal fee established by the division. Under the bill, those fees would be deposited into the Lead Contractor Registration Fund, which the bill would create, with the moneys in the fund to be used, upon appropriation, for the purpose of investigating, registering, and renewing registrations for lead-related construction work. The bill would require an application

to include specified information and a declaration that any information provided by the applicant is genuine, true, and correct to the best of the applicant's knowledge, and would impose a civil penalty for false statements, enforceable by a public prosecutor. The bill would require the division to deny an application if it makes a specific determination and would authorize an employer or contractor to appeal that denial to the Director of Industrial Relations. The bill would establish administrative penalties to be imposed by the division for violations of these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 6716 of the Labor Code is amended to  
2 read:

3 6716. (a) For the purposes of Sections 6717 to 6717.6,  
4 inclusive, "lead-related construction work" means any ~~of the~~  
5 ~~following:~~

6 ~~(1) Any construction, alteration, painting, demolition, salvage,~~  
7 ~~renovation, repair, or maintenance of any building or structure,~~  
8 ~~including preparation and cleanup, that, by using or disturbing~~  
9 ~~lead-containing material or soil, may result in significant exposure~~  
10 ~~of employees to lead as determined by the standard adopted~~  
11 ~~pursuant to Section 6717.~~

12 ~~(2) The transportation, disposal, storage, or containment of~~  
13 ~~materials containing lead on site or at a location at which~~  
14 ~~construction activities are performed.~~

15 (b) "Lead-related construction work," as used in Sections 6717  
16 to 6717.6, inclusive, does not include any activity related to the  
17 manufacture or mining of lead or the installation or repair of  
18 automotive materials containing lead.

19 SEC. 2. Section 6717.1 is added to the Labor Code, to read:

20 6717.1. (a) Any employer or contractor who will be engaging  
21 in lead-related construction work, as defined in paragraphs (1) to  
22 (7), inclusive, of subdivision (a) of Section 1532.1 of Title 8 of  
23 the California Code of Regulations as adopted pursuant to Section  
24 6717, or any successor to those provisions, shall apply for and  
25 obtain a registration from the division before commencing work,  
26 except as follows:

1 (1) For purposes of the registration under this section,  
2 “lead-related construction work” means and refers to work  
3 performed in the removal, demolition, or abatement of existing  
4 materials and does not include the installation of new, previously  
5 unused construction materials.

6 (2) An employer or contractor is not required to obtain  
7 registration under this section to work on a job in which the amount  
8 of lead-containing materials to be disturbed by the employer or  
9 contractor is less than 100 square or linear feet, whichever is  
10 applicable, or in which the amount of lead in the materials to be  
11 disturbed is less than 0.5% by weight or 1.0 milligram per square  
12 centimeter of surface area.

13 (b) An application for registration shall be accompanied by an  
14 application fee in an amount to be estimated by the division to  
15 equal the per-applicant cost of the registration program in excess  
16 of the amount of moneys collected in renewal fees assessed  
17 pursuant to Section 6717.3. ~~These~~ *The division shall deposit* fees  
18 and renewal fees collected pursuant to Section 6717.3 ~~shall be~~  
19 ~~deposited~~ into the Lead Contractor Registration Fund, which is  
20 hereby created. All moneys in this fund shall be available, upon  
21 appropriation, for the purpose of investigating, registering, and  
22 renewing registrations for lead-related construction work.

23 (c) The application shall include all of the following information  
24 and attachments with a declaration stating that the information,  
25 attachments, and any other information provided by the applicant  
26 are genuine, true, and correct to the best of the applicant’s  
27 knowledge:

28 (1) Proof of a valid California contractor’s license.

29 (2) Proof of workers’ compensation insurance.

30 (3) Proof of sufficient employee health insurance coverage for  
31 any medical surveillance costs imposed by Section 1532.1 of Title  
32 8 of the California Code of Regulations, or any successor to that  
33 regulation.

34 (4) Proof that all training and certification requirements for  
35 employees engaged in lead-related work pursuant to Section 1532.1  
36 of Title 8 of the California Code of Regulations, or any successor  
37 to that regulation, have been completed.

38 (5) Other information and attachments as the division determines  
39 to be necessary to evaluate the health and safety of the proposed  
40 employment and place of employment.

(d) Notwithstanding Section 6426, if, in a declaration required by subdivision (c), a declarant willfully states as true any material fact he or she knows to be false, that person shall be subject to a civil penalty of up to ten thousand dollars (\$10,000). Any public prosecutor may bring a civil action to impose the civil penalty. The application for registration shall include a statement advising declarants of the penalty authorized under this provision.

(e) Within 15 business days after the receipt of an application, the division shall notify the registration applicant either that the application is complete or what is necessary to complete the application. The division shall notify the applicant that the application is granted, or that it was denied with reasons for that denial specified in the notice, within 30 business days after the date of submission of a completed application.

SEC. 3. Section 6717.2 is added to the Labor Code, to read:

6717.2. (a) The division shall deny an application for lead-related construction work registration if it determines, based on available facts, including the information provided by the employer or contractor in the application for registration, the employer or contractor has failed to show that the conditions, practices, means, methods, operations, or processes used or proposed to be used will provide a safe and healthful place of employment. The division shall consider the employer's or contractor's compliance history with the division. The division shall ~~immediately~~ notify the employer or ~~contractor~~, *contractor immediately*, in writing, of the reasons for a denial of an application for registration, and shall send a copy of that notification to the director.

(b) An employer or contractor may appeal the denial by the division of an application for registration to the director. The director or his or her designee shall select a place convenient to the parties for the hearing, which shall be held within two working days after the receipt of the employer's or contractor's appeal. The employer or contractor shall have the burden of establishing that it qualifies for registration.

(c) The director or his or her authorized designee shall preside over the hearing, which shall be open to employees and any employee representative or representatives. The employer or contractor shall notify the employees or employee representative or representatives of any appeal hearing a reasonable time prior

1 to the hearing. Proof of this notification by the employer or  
2 contractor shall be provided at the hearing.

3 (d) The director's decision after an appeal hearing concerning  
4 an application for registration shall be final unless *the employer*  
5 *or contractor files* a request for rehearing ~~is filed~~ with the director  
6 within 10 days after the date the director's decision is rendered,  
7 or unless the decision is appealed to the courts as provided by law.

8 SEC. 4. Section 6717.3 is added to the Labor Code, to read:

9 6717.3. (a) A registration for lead-related construction work  
10 shall be valid for one year after the date of issuance by the division.

11 (b) An employer or contractor engaged in lead-related  
12 construction work shall annually file an application to renew its  
13 registration with the division at least 30 days before the expiration  
14 date of its current registration along with a renewal fee to be  
15 established by the division. *The division shall deposit* renewal fee  
16 ~~shall be deposited fees~~ into the Lead Contractor Registration Fund  
17 established by subdivision (b) of Section 6717.1.

18 SEC. 5. Section 6717.4 is added to the Labor Code, to read:

19 6717.4. (a) The division may hold a hearing to determine if a  
20 violation of a duty specified in Section 6717.1 has occurred. Notice  
21 shall be given and the hearing conducted in accordance with the  
22 Administrative Procedure Act (Chapter 5 (commencing with  
23 Section 11500), Part 1, Division 3, Title 2, Government Code).  
24 The division shall have all the powers granted by that chapter. If  
25 the division determines on the basis of the hearing that a violation  
26 has occurred, it shall order the violator to pay monetary penalties,  
27 as follows:

28 (1) Five thousand dollars (\$5,000) for a first finding of a  
29 violation for failing to register as required by Section 6717.1.

30 (2) Twenty thousand dollars (\$20,000) for a second or  
31 subsequent finding of a violation of Section 6717.1.

32 (b) It is a defense to a proceeding under this section if the owner,  
33 contractor, employer, public agency, or agent thereof acted under  
34 a belief that Section 6717.1 was inapplicable because no lead was  
35 present and proves, by a preponderance of the evidence, that he  
36 or she made a reasonable effort to determine whether lead was  
37 present.

38 (c) The penalties under this section shall be in addition to any  
39 other penalty or remedy provided by law.

40 SEC. 6. Section 6717.5 is added to the Labor Code, to read:

1     6717.5. The division, at any time, upon a showing of good  
2     cause and after notice and an opportunity to be heard, may revoke  
3     or suspend a lead-related construction work registration issued by  
4     the division.

5     SEC. 7. Section 6717.6 is added to the Labor Code, to read:

6     6717.6. The program to register employers and contractors  
7     who perform lead-related construction work established in Sections  
8     6717 to 6717.6, inclusive, shall be funded solely from the funds  
9     in the Lead Contractor Registration Fund. To the extent possible,  
10    the division shall consolidate the administration of the program to  
11    register employers and contractors who perform lead-related  
12    construction work with the administration of the program to register  
13    persons doing asbestos-related work.

O